

Service Date: September 27, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

\* \* \* \* \*

IN THE MATTER OF IDT America, Corp.'s	)	UTILITLY DIVISION
Complaint against CenturyTel of Montana, Inc.	)	
and Petition for Expedited Complaint Proceeding	)	DOCKET NO. D2006.8.121
Pursuant to §§ 69-3-829, 830, MCA.	)	
	)	ORDER NO. 6776

**ORDER ON PETITION SEEKING INTERIM ORDER**

Introduction and Background

On August 22, 2006 IDT America, Corp. (IDT) filed an amended complaint against CenturyTel of Montana, Inc. (CenturyTel) pursuant to §§ 69-3-829-830, MCA. The complaint alleges that CenturyTel is refusing to port local telephone numbers in violation of state and federal law and the IDT\CenturyTel interconnection agreement. On August 29, 2006 the Commission accepted the amended complaint<sup>1</sup>, appointed a hearings examiner, and began processing the complaint pursuant to the requirements at § 69-3-830, MCA.

On August 31, 2006 IDT filed a Petition Seeking Interim Order, in which IDT asks the Commission, "to issue relief to CenturyTel consumers in the form of an Interim Order requiring CenturyTel to comply with the law and honor all local number portability requests made by CenturyTel customers as submitted by IDT pending a ruling on IDT's complaint against CenturyTel in [this docket.]" IDT Petition, p. 12. CenturyTel filed a response opposing the Petition; the Montana Consumer Counsel (MCC) filed comments in support of the Petition; CenturyTel filed a response to MCC's comments; and IDT filed a reply to CenturyTel's response.

---

<sup>1</sup> IDT's initial complaint was dismissed for failure to properly notify CenturyTel of its intent to file the complaint. See § 69-3-830(i)(iii), MCA, and September 22, 2006 NCA, this docket.

### DISCUSSION

The Commission denies the IDT Petition for the following reasons. IDT filed its complaint pursuant to statutes that specifically contemplate and mandate an expedited process. See §§69-3-829-830, MCA. To the extent that interim orders generally at the Commission are designed to afford urgent or necessary preliminary or intermediate relief in contemplation of a much longer process to reach final decision, these statutes make such interim relief less urgent or less necessary, because the entire process is expedited.

More importantly, section 69-3-830, MCA, sets forth a very specific process from filing to final order; and there is no authority given the Commission to grant relief other than from a final order. The Commission's explicit or implicit general authority that supports interim action in other contexts cannot be applied to support a grant of interim relief to a complainant who has filed pursuant to the specific provisions of § 69-3-830, MCA.

Finally, IDT's Petition seeks something very much like a preliminary injunction, in which a court is asked to enjoin based on the appearance that the applicant will prevail on the merits. See § 27-19-201(1), MCA. First, the Commission does not have authority to issue injunctive type relief. Montana Power Company v. Public Service Commission, 206 Mont. 359, 671 P. 2d 604 (1983). Second, even if there were authority in the Commission to issue such relief, the Commission is in no position at this point to judge the merits of this dispute, or even to speculate on its ultimate outcome. The Commission will be in such position in due course, and will make a final decision within the relatively short time required by the statute.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over CenturyTel and the IDT complaint pursuant to Title 69, Chapter 3, MCA.
2. The IDT complaint was filed pursuant to §§ 69-3-829-830, MCA, which do not grant the Commission authority to give interim relief to a complainant.
3. Authority to give interim relief in the context of a §§ 69-3-829-830, MCA complaint cannot be derived from other sections of Title 69, MCA
4. The Commission generally does not have authority to issue injunctive type relief.

ORDER

IDT's Petition Seeking Interim Order is denied.

DONE AND DATED this 19th day of September 2006, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

---

GREG JERGESON, Chairman

---

BRAD MOLNAR, Vice-Chairman

---

DOUG MOOD, Commissioner

---

ROBERT H. RANEY, Commissioner

---

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.